

conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

[43 FR 61246, Dec. 29, 1978. Redesignated at 63 FR 23854, Apr. 30, 1998]

**§ 882.518 Denial of admission and termination of assistance for criminals and alcohol abusers.**

(a) *Requirement to deny admission.*—(1) *Prohibiting admission of drug criminals.*

(i) The PHA must prohibit admission to the program of an applicant for three years from the date of termination of tenancy if any household member's federally assisted housing tenancy has been terminated for drug-related criminal activity. However, the PHA may admit the household if the PHA determines:

(A) The household member who engaged in drug-related criminal activity and whose tenancy was terminated has successfully completed an approved supervised drug rehabilitation program, or

(B) The circumstances leading to the termination of tenancy no longer exist (for example, the criminal household member has died or is imprisoned).

(ii) The PHA must establish standards that permanently prohibit admission to the program if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(iii) The PHA must establish standards that prohibit admission of a household to the program if the PHA determines that any household member is currently engaging in illegal use of a drug or that it has reasonable cause to believe that a household member's pattern of illegal use of a drug, as defined in § 5.100 of this title, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) *Prohibiting admission of sex offenders.* The PHA must establish standards that prohibit admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In this screening of applicants, the PHA must perform criminal history background checks

necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in the State where the housing is located and in other States where household members are known to have resided.

(b) *Authority to deny admission.*—(1) *Prohibiting admission of other criminals.*

The PHA may prohibit admission of a household to the program under standards established by the PHA if the PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission decision:

(i) Drug-related criminal activity;

(ii) Violent criminal activity;

(iii) Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;

(iv) Other criminal activity which may threaten the health or safety of the owner or any employee, contractor, subcontractor or agent of the owner who is involved in the owner's housing operations.

(2) *Reasonable time.* The PHA may establish a period before the admission decision during which an applicant must not have engaged in the activities specified in paragraph (b)(1) of this section "reasonable time".

(3) *Sufficient evidence.* If the PHA has denied admission to an applicant because a member of the household engaged in criminal activity in accordance with paragraph (b)(1) of this section, the PHA may reconsider the applicant if the PHA has sufficient evidence that the members of the household are not currently engaged in, and have not engaged in criminal activity during a reasonable period, as determined by the PHA, before the admission decision.

(i) The PHA would have "sufficient evidence" if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which the PHA verified.

(ii) For purposes of this section, a household member is “currently engaged in” criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

(4) *Prohibiting admission of alcohol abusers.* The PHA must establish standards that prohibit admission to the program if the PHA determines that it has reasonable cause to believe that a household member’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

(c) *Terminating assistance.*—(1) *Terminating assistance for drug criminals.* (i) The PHA may terminate assistance for drug-related criminal activity engaged in on or near the premises by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant’s control. In addition, the PHA may terminate assistance if the PHA determines that a household member is illegally using a drug or when the PHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(ii) The PHA must immediately terminate assistance for a family under the program if the PHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

(2) *Terminating assistance for other criminals.* (i) The PHA must establish standards that allow the PHA to terminate assistance for a family if the PHA determines that any household member is engaged in criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or by persons residing in the immediate vicinity of the premises.

(ii) The PHA may terminate assistance for a family if the PHA determines that a member of the household is:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit

a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

(B) Violating a condition of probation or parole imposed under Federal or State law.

(3) *Evidence of criminal activity.*

(i) The PHA may terminate assistance for criminal activity in accordance with this section if the PHA determines, based on a preponderance of the evidence, that a covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity.

(ii) See part 5, subpart J, of this title for provisions concerning access to criminal records.

(4) *Terminating assistance for alcohol abusers.* The PHA must establish standards that allow termination of assistance for a family if the PHA determines that a household member’s abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

[66 FR 28797, May 24, 2001]

## Subpart F–G [Reserved]

## Subpart H—Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals

SOURCE: 61 FR 48057, Sept. 11, 1996, unless otherwise noted.

### § 882.801 Purpose.

The purpose of the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals is to provide rental assistance for homeless individuals in rehabilitated SRO housing. The Section 8 assistance is in the form of rental assistance payments. These payments equal the rent for the unit, including utilities, minus the portion of the rent payable by the tenant under the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.).